

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Appeal of the  
Invasive Species/Infested Waters Civil  
Citation Issued to Timothy Paul  
Priglmeier; Citation No. 124328

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

A hearing was held by telephone on August 13, 2012, pursuant to a Notice of Prehearing Conference and Notice of Hearing issued on July 20, 2012.

Appearances: Conservation Officer Bob Mlynar, on behalf of the Department of Natural Resources (Department); Timothy Paul Priglmeier, on his own behalf. Also testifying was Korie Ann Rose Priglmeier.

The parties agreed that no formal hearing would be needed and that the Administrative Law Judge could make a recommendation based on the record created during the Prehearing Telephone Conference. The parties were placed under oath, and their testimony was taken. The hearing record closed at the end of the telephone hearing on August 13, 2012.

**STATEMENT OF THE ISSUE**

Did Mr. Priglmeier violate Minn. Stat. § 84D.10, subd. 4(b),<sup>1</sup> by transporting a boat without the drain plug removed or opened?

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

**SUMMARY OF THE FACTS**

On June 17, 2012, Officer Mlynar was at the public access to Lone Lake watching and waiting for people to leave the lake or come to the lake to work with them on the invasive species law.

At approximately 12:10 p.m. he saw a vehicle come into the public access and prepare to back onto the ramp. Officer Mlynar walked behind the vehicle and saw the drain plug was in the watercraft. There was a gentleman and a couple of ladies in the

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<sup>1</sup> Minnesota Statutes are cited to the 2010 Edition.

vehicle. Officer Mlynar pointed out the plug in the watercraft. The driver was identified as Mr. Priglmeier by his driver's license. Officer Mlynar issued him a citation.

Minnesota Statutes § 84D.10, subd. 4(b) states: "Drain plugs, bailers, valves, or other devices used to control the draining of water from ballast tanks, bilges, and live wells must be removed or opened while transporting water-related equipment."

Mr. Priglmeier was out for a day of boating with his daughters. It was Father's Day. When he was approached by Officer Mlynar he asked the Officer about the new Invasive Species decal. Nothing was said about the drain plug until after the citation was issued. Mr. Priglmeier testified there was no water in the bilge and it was completely dry. Officer Mlynar was told by St. Paul headquarters that a citation had to be given to boaters in this situation.

Mr. Priglmeier stated he always pulls the plug when taking his boat out of the water and always checks his boat and trailer for weeds and such. He is a responsible boater and takes care of his equipment. Mr. Priglmeier asks for a break and believes that a warning would have been sufficient under the circumstances.

Based on the Summary of Facts, the Administrative Law Judge makes the following:

### **CONCLUSION**

Pursuant to Minn. Stat. § 84D.13, subd. 8, an appeal of a civil citation shall be considered under the procedures in Minn. Stat. § 116.072, subd. 6, if the person who received the citation requests a hearing within 15 days after receipt of the citation. Mr. Priglmeier filed a timely appeal and request for hearing.

Mr. Priglmeier violated Minn. Stat. § 84D.10, subd. 4(b), on June 17, 2012, by transporting a boat without removing or opening the drain plug.

Based upon these Conclusions, and for the reasons explained in the accompanying Memorandum incorporated herein, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

The Administrative Law Judge recommends that the civil citation issued to Timothy Paul Priglmeier be AFFIRMED.

Dated: August 24, 2012

s/James E. LaFave  
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JAMES E. LAFAVE  
Administrative Law Judge

## **NOTICE**

Pursuant to Minn. Stat. § 116.072, subd. 6(e), the Commissioner may not issue a final order until at least five days after receipt of the report of the Administrative Law Judge. The persons to whom the order is issued may within those five days comment to the Commissioner and the Commissioner will consider the comments. The final order of the Commissioner may be appealed, pursuant to Minn. Stat. §§ 14.63 and 14.69.

## **MEMORANDUM**

Mr. Priglmeier does not dispute that the drain plug was in his boat when he pulled it into the boat launch. He does not believe the citation was appropriate because there was no water in the bilge and it was completely dry. He points out he is a responsible boater, and always checks his boat and trailer for weeds. He believes that a warning would have been more appropriate under the circumstances.

The citation was properly issued. It is within the discretion of the commissioner to affirm the citation or to reduce the citation to a warning.

**J.E.L.**